

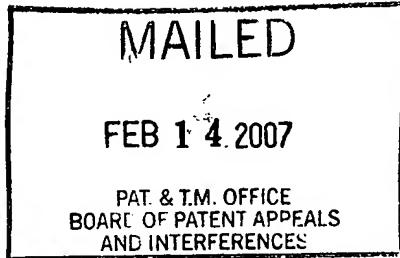


# UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

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Filed by: Judge Sally Gardner Lane  
Telephone: 571-272-4683  
Facsimile: 571-273-0042



Applicants: PATTEN  
Application No.: 10/646,221  
Filed: 08/22/03  
For: Methods and compositions for polypeptide engineering

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,532.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/Sally Gardner Lane/  
SALLY GARDNER LANE  
Administrative Patent Judge

## **INTERFERENCE DIGEST**

Interference No. 105,532

Paper No.

Name: Phillip A. Patten et al.

Serial No.: 10/646,221

Patent No.

Title: Methods and compositions for polypeptide engineering

Filed: 08/22/03

Interference with Short

### **DECISION ON MOTIONS**

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

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### **FINAL DECISION**

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_

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Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### **REMARKS**

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**This should be placed in each application or patent involved in interference in addition to the interference letters.**

Paper 1

Mail Stop Interference  
P.O. Box 1450  
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Filed 14 February 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

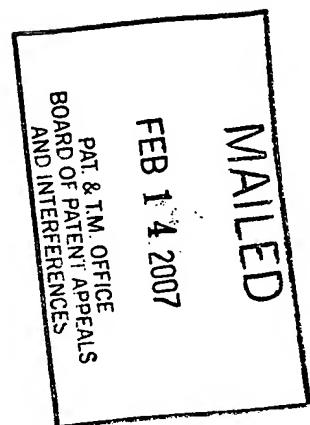
JAY M. SHORT

Junior Party  
(Patent 6,605,449),

v.

PHILLIP A. PATTEN,  
And WILLEM P.C. STEMMER,

Senior Party  
(Application 10/646,221).



Patent Interference No. 105,532 (SGL)  
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)<sup>1</sup>

<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1           **Part A. Declaration of interference**

2           An interference is declared (35 U.S.C. §135(a)) between the above-identified  
3           parties. Details of the application(s), patent (if any), reissue application (if any), count(s)  
4           and claims designated as corresponding or as not corresponding to the count(s) appear  
5           in Parts E and F of this DECLARATION.

6           **Part B. Judge managing the interference**

7           Administrative Patent Judge Sally Gardner Lane has been designated to manage  
8           the interference. Bd.R. 104(a).

9           **Part C. Standing order**

10           A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
11           DECLARATION. The STANDING ORDER applies to this interference.

12           **Part D. Initial conference call**

13           A telephone conference call to discuss the interference is set for **2:00 p.m. on 19**  
14           **April 2007** (the Board will initiate the call).

15           No later than **four business days** prior to the conference call, each party shall  
16           file and serve (SO & 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204;  
17           SO & 104.2.1, 120 & 204) the party intends to file.

18           A sample schedule for taking action during the motion phase appears as Form 2  
19           in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to  
20           the conference call and to agree on dates for taking action. A typical motion period  
21           lasts approximately eight (8) months. Counsel should be prepared to justify any request  
22           for a shorter or longer period.

1                   **Part E. Identification and order of the parties**

2                   Junior Party

3                   Named inventors:           Jay M. Short  
4   Rancho Santa Fe, CA

5                   Involved Patent:           6,605,449, issued on 12 April 2003

6   from application 09/594,459, filed 14 June 2000

7                   Title:                       SYNTHETIC LIGATION REASSEMBLY IN  
8   DIRECTED EVOLUTION

9                   Assignee:                   Diversa Corporation

10                   Senior Party

11                   Named Inventors:           Phillip A. Patten  
12   Menlo Park, CA

13   Willem P.C. Stemmer  
14   Los Gatos, CA

15                   Involved Application:    10/646,221, filed 22 August 2003

16                   Title:                       METHODS AND COMPOSITIONS FOR  
17   POLYPEPTIDE ENGINEERING

18                   Assignee:                   None of record

19                   The senior party is assigned exhibit numbers 1001-1999. The junior party is

20                   assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO & 154.2.1. The senior party

21                   is responsible for initiating settlement discussions. SO & 126.1.

1                   **Part F. Count and claims of the parties**

2                   Count 1

3                   Claim 1 of Short (6,605,449)

4                   or

5                   Claim 275 of Patten (10/646,221)

6                   The claims of the parties are:

7                   Short:        1-12

8                   Patten:      275

9                   The claims of the parties which correspond to Count 1 are:

10                  Short:        1-12

11                  Patten:      275

12                  The claims of the parties which do not correspond to Count 1, and therefore are

13                  not involved in the interference, are:

14                  Short:        None

15                  Patten:      None

16                  The parties are accorded the following benefit for Count 1:

17                  Short:

18                  US 09/332,835, filed 14 June 1999

19                  Issued as 6,537,776 on 25 March 2003

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1 Patten:  
2 US 09/559,671, filed 27 April 2000  
3 Issued as 6,613,514 on 2 September 2003  
4 US 08/769,062, filed 18 December 1996  
5 Issued as 6,335,160 on 01 January 2002  
6

7 **Part G. Heading to be used on papers**

8 The following heading must be used on all papers filed in this interference, see  
9 SO & 106.1.1:

10 UNITED STATES PATENT AND TRADEMARK OFFICE

11 \_\_\_\_\_  
12 BEFORE THE BOARD OF PATENT APPEALS  
13 AND INTERFERENCES  
14 \_\_\_\_\_

15 JAY M. SHORT

16 Junior Party  
17 (Patent 6,605,449),  
18

19 v.  
20

21 PHILLIP A. PATTEN,  
22 and WILLEM P.C. STEMMER,  
23

24 Senior Party  
25 (Application 10/646,221).  
26 \_\_\_\_\_

27 Patent Interference No. 105,532 (SGL)  
28 (Technology Center 1600)  
29  
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#### **Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Sally Gardner Lane/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Form PTO-850  
Copy of claims of Patent 6,605,449  
Copy of claim of Application 10/646,221

Revised 3 January 2006

cc (via overnight delivery):

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